



Linda S. Adams
Secretary for
Environmental Protection

California Environmental Protection Agency

Air Resources Board • Department of Pesticide Regulation • Department of Toxic Substances Control
Integrated Waste Management Board • Office of Environmental Health Hazard Assessment
State Water Resources Control Board • Regional Water Quality Control Boards



Arnold Schwarzenegger
Governor

Certified Mail: 7003 1680 0000 6174 9118

August 6, 2007

Ms. Kasey Foley
CUPA Program Coordinator
San Joaquin County Environmental Health
600 East Main Street,
Stockton, California, 95202

Dear Ms. Foley:

The California Environmental Protection Agency (Cal/EPA), Office of Emergency Services, Office of the State Fire Marshal, and the Department of Toxic Substances Control conducted a program evaluation of San Joaquin County Environmental Health's Certified Unified Program Agency (CUPA) on July 18 and 19, 2007. The evaluation was comprised of an in-office program review and field oversight inspections. The State evaluators completed a Certified Unified Program Agency Evaluation Summary of Findings with your agency's program management staff, which includes identified deficiencies, with preliminary corrective actions and timeframes, program observations and recommendations, and examples of outstanding program implementation.

The enclosed Evaluation Summary of Findings is now considered final and based upon review, I find that San Joaquin County Environmental Health's program performance is satisfactory with some improvement needed. To complete the evaluation process, please submit Deficiency Status Reports to Cal/EPA that depict your agencies progress towards correcting the identified deficiencies. Please submit your Deficiency Status Reports to Kareem Taylor every 90 days after the evaluation date. The first deficiency progress report is due on October 17, 2007.

Cal/EPA also noted during this evaluation that San Joaquin County Environmental Health has worked to bring about a number of local program innovations, including: The production of a methamphetamine educational documentary film and the use of enforcement case settlement monies to provide free educational workshops for San Joaquin's regulated community. We will be sharing these innovations with the larger CUPA community through the Cal/EPA Unified Program web site to help foster a sharing of such ideas statewide.

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Thank you for your continued commitment to the protection of public health and the environment through the implementation of your local Unified Program. If you have any questions or need further assistance, you may contact your evaluation team leader or Jim Bohon, Manager, Cal/EPA Unified Program at (916) 327-5097 or by email at jbohon@calepa.ca.gov.

Sincerely,

[Original signed by Don Johnson]

Don Johnson
Assistant Secretary
California Environmental Protection Agency

Enclosure

cc: Mr. Francis Mateo (Sent Via Email)
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Sacramento, California 94244-2460

Mr. Mark Pear (Sent Via Email)
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Mr. Fred Mehr (Sent Via Email)
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CERTIFIED UNIFIED PROGRAM AGENCY EVALUATION SUMMARY OF FINDINGS

CUPA: San Joaquin County Environmental Health

Evaluation Date: July 18 and 19, 2007

EVALUATION TEAM

Cal/EPA: Kareem Taylor

OES: Fred Mehr

DTSC: Mark Pear

OSFM: Francis Mateo

This Evaluation Summary of Findings includes the deficiencies identified during the evaluation, program observations and recommendations, and examples of outstanding program implementation activities. The evaluation findings are preliminary and subject to change upon review by state agency and CUPA management. Questions or comments can be directed to Kareem Taylor at (916) 327-9557.

	<u>Deficiency</u>	<u>Preliminary Corrective Action</u>
1	In the Annual Single Fee Summary Report (Report 2) for fiscal year (FY) 05/06, the CUPA did not including the amount of single fee billed and collected for its participating agency (PA) into the total amount of single fee billed and collected. Refer to the row in Report 2 labeled "Single Fee." Title 27, Section 15290 (a)(1)(A) (Cal/EPA)	On September 30, 2007, submit the CUPA's FY 06/07 Summary Report 2 that correctly reports the total single fee billed and collected in the "Single Fee" row. This row is for reporting the sums of the single fee billed, waived, and collected for the CUPA and its PA.
2	In the Annual Enforcement Summary Report (Report 4) for FYs 03/04 through 05/06, the CUPA did not report the correct number of facilities with violations. There was a substantially larger number of routine inspections that return to compliance (RTC) reported in Annual Inspection Summary Report (Report 3) than the number of facilities cited for violations. Example are as follows: <ul style="list-style-type: none"> • In Report 3 for FY 03/04, the CUPA reported 917 business plan routine inspections that RTC, but in the CUPA's Report 4, only 313 facilities were reported for having violations. • In Report 3 for FY 04/05, the CUPA reported 	On September 30, 2007, submit the CUPA's FY 06/07 Summary Report 4 that correctly reports the number of facilities with violations and the number of informal enforcement actions for each program element.

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	<p>30 CalARP routine inspections that RTC, but in the CUPA's Report 4, only 4 facilities were reported for having violations.</p> <ul style="list-style-type: none"> In Report 3 for FY 05/06, the CUPA reported 227 underground storage tank (UST) routine inspections that RTC, but in the CUPA's Report 4, only 84 facilities were reported for having violations. <p>Also, the number of informal enforcement actions reported from FYs 03/04 through 05/06 was incorrect.</p> <p>Title 27, Section 15290 (a)(2)(3) (Cal/EPA)</p>	
3	<p>The CUPA's PA is not inspecting CalARP facilities once every three years.</p> <p>Title 27, Section 15200(a)(3) Title 19, Section 2775.3 (OES)</p>	<p>By July 19, 2008, the CUPA's PA will inspect at least one-third of its CalARP facilities.</p> <p>Inspect all CalARP facilities at least once every three years.</p>
4	<p>The CUPA has not established a Cal ARP dispute resolution procedure.</p> <p>Title 19, Section 2780.1(a) (OES)</p>	<p>By October 19, 2007, establish a CalARP dispute resolution procedure that contains all of the required element of Title 19, Section 2780.1(a)</p>
5	<p>The CUPA did not conduct a complete oversight inspection on 03/21/07. During the inspection, the following was noted:</p> <ul style="list-style-type: none"> Inspector failed to observe that only one 55-gallon drum per waste stream is allowed under satellite accumulation. In addition, once a 55 gallon drum reaches full capacity, the generator must label the container holding the accumulated hazardous waste with the date the quantity limitation was reached and the drum must be removed off-site within 90 days of reaching full capacity. <p>HSC, Section 25123.3 (d) (DTSC)</p>	<p>Corrected on site.</p>
6	<p>The CUPA is not conducting inspections with a frequency that is consistent its Inspection and Enforcement Plan and with the inspection of other program elements. The CUPA has not inspected all 1257 hazardous waste generators (HWG) that have been identified by the CUPA. The last three annual inspection summary reports indicate the following:</p>	<p>By July 19, 2008, the CUPA will inspect at least one-third of its HWG facilities.</p> <p>Additional resources need to be committed to the hazardous waste program.</p>

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<ul style="list-style-type: none">• 1213 hazardous waste generators were identified in Fiscal Year 03/04 of which 405 were inspected.• 1257 hazardous waste generators were identified in Fiscal Year 04/05 of which 463 were inspected.• 1242 hazardous waste generators were identified in Fiscal Year 04/05 of which 166 were inspected.• <p>The CUPA has inspected approximately 82% of all known facilities generating hazardous waste over the past three fiscal years. Further improvement may be made.</p> <p>Title 27, Section 15200(b)(1) (2) (DTSC)</p>	
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CUPA Representative

Kasey Foley
(Print Name)

Kasey Foley
(Signature)

Evaluation Team Leader

Kareem Taylor
(Print Name)

Kareem Taylor
(Signature)

Certified Unified Program Agency (CUPA)
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PROGRAM OBSERVATIONS AND RECOMMENDATIONS

The observations and recommendations provided in this section simply address those areas not specifically required of the CUPA by regulation or statute and are provided for continuous program improvement only.

1. **Observation:** The CUPA's UST inspection reports reviewed did not contain a signed consent to inspect by a facility owner/operator. Signed consent on the inspection report is important because it strengthens any potential enforcement case against a noncompliant facility.

Recommendation: On the UST inspection report form, add a consent element where an owner/operator can grant consent to inspect by signing his/her name on the inspection report.

2. **Observation:** During the file review, evaluators found it difficult to locate specific documents in a facility file because they were all intermingled.

Recommendation: Either place labeled separators between separate documents or place labeled tabs on the documents. This will save time when someone need to find a specific document.

3. **Observation:** The CUPA and PA should include the agricultural inspectors in the Business Plan, Cal ARP, and Spill Reporting training.

Recommendation: The PA should cross train the agricultural inspectors into the other business plan elements and the CalARP program. Train the agricultural inspectors with the PA's other business plan and CalARP inspectors.

4. **Observation:** San Joaquin County OES refers to Title 19, California Code of Regulations (CCR), Chapter 4, Article 4 Section 2732 in their on-line training as a reference.

Recommendation: The CUPA's PA should include the written requirements of Title 19, CCR, Chapter 4, Article 4 Section 2732 in their on-line training definitions.

5. **Observation:** The PA does not have backup hardcopy files for the most current facility documents in their computer database. For example, some annual certifications were out-of-date. The program coordinator mentioned that the PA is now entering most documents into the database only.

Recommendation: The PA should ensure that all data is backed up with hardcopy. The PA should also ensure that data is recoverable in case of a power surge or any uncontrolled incident that may cause loss of data.

6. **Observation:** The CUPA was able to demonstrate that most complaints which were referred by DTSC from July 1, 2005 to June 1, 2007 were investigated. Follow-up documentation could be found for Complaints Nos. 07-0507-0229, 07-0507-0230, 06-

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0406-075,06-0106-0023,05-1105-0582,05-1205-0590,06-0906-0501,06-1006-0579, 07-0107-0013,05-0505-0265, 06-0306-0131,05-0805-0414,07-0307-0118,07-0307-0169,06-0806-0435,06-0806-0444,06-0506-0261,07-0107-0537,07-0207-0070,and 07-0207-0072. One complaint, 05-0905-0444, was found still pending from 9/2005 and another complaint, 05-0505-0266, had not been logged into the system.

Recommendation: Keep up the good work. Ensure that all complaints are being received by the CUPA from DTSC by providing the e-mail address of the person who should receive complaints to [slaney@dtsc.ca.gov] complaint coordinator. Investigate and document all complaints referred. Investigation does not always involve inspection, as many issues may be resolved by other means such as a phone call. In any instance, it is suggested that all investigations be documented, either by inspection report or by "note to file" and placed in the facility file. Please keep up good work and continue to notify the complaint coordinator of the disposition of all complaints.

7. **Observation:** There is a difference of approximately a 1000 facilities between what the CUPA has reported in its latest inspection summary report for Fiscal Year 2004-2005 and the total number of businesses manifesting off hazardous waste with active EPA ID numbers listed in the Department's Hazardous Waste Tracking System

Recommendation: The CUPA should reconcile its hazardous waste generator data base providing a total of 1242 facilities with that of the Department of Toxic Substances Control's Hazardous Waste Tracking System indicating a total of 2260 facilities.

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EXAMPLES OF OUTSTANDING PROGRAM IMPLEMENTATION

1. The CUPA participates in the San Joaquin Toxic Strike Force meetings held monthly. The meetings allow agencies involved in the regulation of facilities that handle hazardous materials or waste to come together to discuss inspection and enforcement issues. Joint and multimedia inspections are scheduled during these meetings.
2. San Joaquin County CUPA is very active in community outreach and education. Pollution prevention is promoted during facility inspections and educational workshops. The CUPA also provides hydrophobic mops for oil cleanup, fact sheets, and other pollution prevention and compliance guidance to its regulated community. Since 2002, the CUPA has hosted 91 training workshops and trained over 1700 people in the regulated community. The workshops are free and are funded by monies collected from enforcement case settlements. Workshop topics are as follows:
 - UST Compliance
 - UST Operator
 - HW Generator Compliance
 - New Manifest Training
 - Basic CUPA Compliance
 - Advanced CUPA Compliance
 - HM Business Plan Training
 - Auto Industry HW Management
 - Agricultural Industry HW/HM Management

The CUPA was also involved with:

- The production of a methamphetamine educational documentary (CUPA staff had character roles in the film.). The film has been broadcast on a local Stockton channel.
 - The Targeted Opportunities to Prevent Pollution in San Joaquin (TOPPS) Committee.
 - The Central Valley Pollution Prevention Committee. The CUPA manager is a Co-Chair to the committee.
 - Storm Water and Pollution Prevention Outreach Activities
3. The PA organizes Business Plan files and data entry system by using data base management software called File Maker Pro. The regulated businesses, the Fire Departments and the public have access to business information of through San Joaquin County OES's website. Each regulated business is given a login ID and password in order to access their business plan information. Owners/operators may make any required changes or updates to their information. Fire departments have similar access privileges for emergency response purposes. The public has "read only" capabilities to the files.

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4. The CUPA's enforcement program is very streamlined, efficient, and effective. Many cases are referred to the District Attorney (DA) who actively pursues enforcement. Recently, a full-time staff position was designated solely to handle enforcement. The Envision database is used to track the progress of enforcement cases. Some settled enforcement cases are listed below:
- The San Joaquin County Environmental Health Department participated in a civil case brought by the DA concerning LensCrafters, Inc which was settled for \$474,422 for the company illegally disposing of a cured lens coating film after exposure to UV radiation to the trash. The business uses a polycarbonate coating material which is applied to some optical lenses, if requested by the customer. The coating is applied to the optical lens by a machine designed for such application, where it is then cured onto the lens by ultraviolet light. A small amount of overspray results from the application process and this excess material (several ounces) is collected in an enclosed, labeled container within the machine before it is disposed to the trash. Included in the settlement was the stipulation that the business provide 400 vouchers each for a free eye exam and a free pair of glasses to be distributed to the needy residents of California.
 - The San Joaquin County Environmental Health Department referred a civil case to the DA concerning Tom Newhall Boat Repair which was settled for \$23,415 for the company illegally disposing of sandblast contaminated with copper. Tom Newhall Boat Repair violated provisions of the California Health and Safety Code by allowing employees to improperly handle and dispose of sandblast, which was contaminated with hazardous waste levels of copper. The violations placed workers, neighbors, and the environment at risk and the conduct gave Tom Newhall Boat Repair an unfair advantage over those businesses that have complied with California law. The investigation revealed no evidence of human injury from these violations.
 - The San Joaquin County Environmental Health Department referred a civil case to the DA concerning Joe's Travel Plaza which was settled for \$16,000 for the facility failing to perform a timely secondary containment assessment of its USTs.
 - The San Joaquin County Environmental Health Department referred a civil case to the DA concerning Stockton Bumper which was settled for \$39,513 for the facility disposing of a hazardous waste at an unauthorized point, storing hazardous waste longer than 90 days without a permit, failing to make a hazardous waste determination, failing to properly label containers of hazardous waste, failing to keep containers of hazardous waste closed except when adding or removing hazardous waste, and failing to complete a contingency plan.
 - The San Joaquin County Environmental Health Department referred a civil case to the DA concerning Valley Industries, Inc., a trailer towing products manufacturer, which was settled for \$114,990 for the facility causing the disposal of hazardous waste at an unauthorized point, storing hazardous waste on site longer than 90 days without a permit or authorization, failing to have a Spill Prevention Control and Countermeasure Plan on site for aboveground petroleum storage tanks, failing to determine if waste is a hazardous waste, failing to minimize the release of a hazardous waste, failing to provide spill

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control equipment, and or decontamination equipment, failing to properly label containers of hazardous waste, failing to keep containers of hazardous waste closed except when adding or removing hazardous waste, failing to keep signed copies of manifests for 3 years, failing to determine the status of a hazardous waste when a manifest copy is not received, failing to file an exception report, failing to maintain a contingency plan, failing to complete personnel training records, failing to retain on-site required certification, and failing to conduct daily inspections.

5. In addition to CUPA activities, CUPA staff performs storm water inspections and respond to emergency releases. They also participate in:

- San Joaquin Strike Force meetings
- Disaster preparedness committees
- Disaster drills and exercises
- FEMA Training – SEMS, NIMS, ICS
- CSTI and CHMIA Training Courses

6. The San Joaquin County Environmental Health Department has developed an informative website (www.sjgov.org) providing a directory of services, a CUPA contact list, Fee Schedule, CUPA Hazardous Waste Schedule of classes, Hazardous Waste Generator Inspection Report, Tiered Permitting Inspection Report, Contingency Plan, CRT Recycler List, links to the Health & Safety Code and CCR, a training CD, unified program consolidated forms, unidocs inspections forms, and answers to frequently asked questions concerning hazardous materials.